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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,970

03/07/2005

Christoph Brabec

4001-1198

7373

466 7590 10/01/2008

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EXAMINER

SEMENENKO, YURIY

ART UNIT

PAPER NUMBER

2841

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,970	<b>Applicant(s)</b> BRABEC ET AL.	
	<b>Examiner</b> YURIY SEMENENKO	<b>Art Unit</b> 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/07/2005, 07/07/2005, 04/09/2007, 12/26/2007,</u>           | 6) <input type="checkbox"/> Other: ____.                          |
| <u>04/09/2008, 06/06/2008.</u>   |   |



## **DETAILED ACTION**

### ***Response to Amendment***

1. Preliminary Amendment filed on 03/07/2005 has been entered.  
Claims 1- 8 are now pending in the application.

### ***Claim Objections***

2. Claims 1 – 7 and 8 are objected to because of the following informalities:  
Claim 1: “ Housing ” should be changed to – A housing - for proper antecedence basis.  
Claims 2- 8: “ Housing ” should be changed to – the housing - or proper antecedence basis.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolf et al., (US 6349221) hereinafter Wolf.

As to claim 1: Wolf discloses in Fig. 1 housing 1 comprising a solid base element (plastic as material usually used for the housing of the mobile telephone) and coated with a film in at least sub-areas (sub-area is an area of the display 2), the film serving as a substrate on which at least one electronic component is arranged 3.

As to claim 2: Wolf discloses the housing having all of the claimed features as discussed above with respect to claim 1, wherein the at least one electronic component 3, Fig. 1 having has an electrochromic color system (col. 1: 9-22).

As to claim 3: Wolf discloses the housing having all of the claimed features as discussed above with respect to claim 2, wherein the electrochromic color system 3, Fig. 1 causing causes a reversible change in the housing color(col. 1: 9-22).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 4-7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf, as applied to claims 1 and 4 respectively above, and further in view of Forrest et al., (PG Pub. No: 2002/0119297) hereinafter Forrest.

Art Unit: 2841

As to claims 4 – 7 and 8: Wolf discloses the housing having all of the claimed features as discussed above with respect to claim 2.

Although Wolf does not explicitly teach at least one electronic component has a photovoltaic cell, such as a solar cell, a sensor, as a photodetector and at least one electronic component is predominantly constructed from organic material, but Applicants teach to use for electrochromic color systems polyaniline (PANI), or derivatives, (Specification, page 2, lines 33 – 35), which at the time the invention was made was old and well-known to use for electrochromic color systems, as evidenced by Forrest (Forrerst, “Background of the invention” section, [0013] and [0022]. Therefore at the time the invention was made, that it are was old and well-known to use for electrochromic color systems polyaniline (PANI), Furthermore, if material (PANI) is capable of performing the intended use (works as a photovoltaic cell) then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) AND *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made for Wolf to include in his invention at least one electronic component having has a photovoltaic cell, such as a solar cell, a sensor as a photodetector and is predominantly constructed from organic material, as taught by Forrest, motivated by its known suitability for its intended use. See MPEP §2144.07, and since courts have held “ the materials are capable of performing the intended use and then it meets the claim”. See *In re Casey*, 152 USPQ 235 (CCPA 1967) AND *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Merker et al. – PG Pub. No: 2004/0085711;

Suppelsa et al. – US 5808711;

Thompson – US 5465401.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yuriy Semenenko whose telephone number is (571) 272-6106. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571)- 272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Y. S./

Examiner, Art Unit 2841

/Tuan T Dinh/

Primary Examiner, Art Unit 2841